

J & W Drywall Contractors, Inc., J & W Drywall and Plastering Company, Inc., J & W Drywall Lather Plastering Co., Inc., and William Williams and Carl Cook, Jr. and Painters' District Council No. 22, International Brotherhood of Painters and Allied Trades, AFL-CIO and Carpenters District Council of Detroit and South-eastern Michigan, AFL-CIO. Cases 7-CA-17172 and 7-CA-17655

July 24, 1992

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On January 21, 1981, the National Labor Relations Board issued a Decision and Order, *inter alia*, ordering Respondent J & W Drywall Contractors, Inc. (Respondent Contractors) to make whole its employees for the loss of earnings they suffered and to make payments to the fringe benefit funds it unlawfully failed to make as a result of the Respondent Contractors' unfair labor practices.

On September 15, 1981, the United States Court of Appeals for the Sixth Circuit, in Case No. 81-1110, issued its mandate enforcing the Board's Order dated January 21, 1981.

On January 12, 1984, the United States Court of Appeals for the Sixth Circuit entered its mandate finding the Respondent Contractors in civil contempt for failing and refusing to comply with the September 15, 1981, judgment of that court. The court directed Respondent Contractors to make whole its employees by paying the accrued amounts due and owing to the fringe benefit funds pursuant to the Painters, Tenders, and Plasterers collective-bargaining agreements, or any other collective-bargaining agreements to which Respondent Contractors is a party for any periods since the entry of the September 15, 1981 judgment.

A controversy having arisen over the payment and amounts of fringe benefits due under the terms of the contempt order of the Sixth Circuit, the Acting Regional Director for Region 7 issued a compliance specification and notice of hearing on March 24, 1992, against Respondent Contractors and Respondents J & W Drywall and Plastering (Respondent Plastering), J & W Lather Plastering Co., Inc. (Respondent Lather), and William Williams (Respondent Williams) as alter egos and/or a single employer alleging the amount due under the court's Order, and notifying the Respondents that they should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondents have failed to file an answer.

By letter dated April 22, 1992, the Regional attorney advised the Respondents that no answer to the compliance specification had been received and that unless an appropriate answer was filed by May 6, 1992, default judgment would be sought. The Respondents filed no answer.

On June 12, 1992, the General Counsel filed with the Board a Motion to Transfer the Case to the Board and for Default Judgment, with exhibits attached. On June 17, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Default Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Default Judgment, the Respondents, despite having been advised of the filing requirements, have failed to file an answer to the compliance specification. In the absence of good cause for the Respondents' failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Default Judgment. Accordingly, we conclude that Respondents Contractors, Plastering, Lather, and Williams are alter egos and/or a single employer and the liquidated damages owed by the Respondents to the Carpenters Fringe Benefit Funds is \$25,758.71 resulting from late payments and \$85.30 resulting from an audit conducted in May 1985. We will order payment by the Respondents of these amounts as set forth in the compliance specification.

ORDER

The National Labor Relations Board orders that the Respondents, J & W Drywall Contractors, Inc.,

J & W Drywall and Plastering Company, Inc. J & W Drywall Lather Plastering Co., Inc., and William Williams, Detroit, Michigan, their officers, agents, successors, and assigns, shall pay liquidated

damages to the Detroit Carpenters' Funds in the total amount of \$25,844.01 with interest computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).